



Senate

General Assembly

File No. 91

January Session, 2001

Substitute Senate Bill No. 1066

Senate, April 2, 2001

The Committee on Banks reported through SEN. MCDERMOTT of the 34th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING DEPOSITS IN TRUST AT CREDIT UNIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 36a-296 of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 (a) (1) No bank, Connecticut credit union, or federal credit union
4 shall establish any deposit or share account in which deposits or shares
5 are to be held by one natural person in trust for another natural person
6 unless the depositor provides the bank, Connecticut credit union, or
7 federal credit union with the name and a residential address for the
8 beneficiary, upon establishing the deposit or share account or
9 thereafter at the request of the bank, Connecticut credit union, or
10 federal credit union. The depositor may also provide the bank,
11 Connecticut credit union, or federal credit union with a writing signed
12 by the depositor specifying the terms of the trust under which such
13 deposit or share account is to be held. Unless such writing specifies to
14 the contrary, it shall be conclusively presumed that the depositor

15 intends to create a trust of all funds credited to the deposit or share
16 account from time to time upon the following terms: (A) The depositor
17 during [his] the depositor's life may withdraw, or authorize charges
18 against, such funds; (B) if the depositor survives the named
19 beneficiary, the named beneficiary's death shall terminate the trust and
20 title to the deposit or share account shall thereupon vest in the
21 depositor free and clear of the trust; (C) if the named beneficiary
22 survives the depositor, the depositor's death shall terminate the trust
23 and title to the deposit account or share account, subject to any
24 membership restrictions for Connecticut credit unions or federal credit
25 unions, shall thereupon vest in the named beneficiary free and clear of
26 the trust. (2) Any bank, Connecticut credit union, or federal credit
27 union shall be fully protected in making payment of any moneys
28 credited to such deposit or share account in accordance with the terms
29 of such signed writing or, in the event such writing does not specify to
30 the contrary, in accordance with the presumptions contained in this
31 subsection that are applicable, and the title of any person to any
32 moneys credited to such deposit or share account and the effect of such
33 signed writing with respect to the deposit or share account or, in the
34 event such writing does not specify to the contrary, the effect of the
35 presumptions contained in this subsection shall not be denied,
36 abridged or in any way affected because such signed writing was not
37 executed in accordance with, or otherwise fails to comply with, the
38 laws of this state prescribing the requirements to effect a valid
39 testamentary disposition of property or because of any absence of
40 delivery or compliance with other requirements to effect a valid gift or
41 transfer in trust. (3) The provisions of this subsection do not apply to
42 deposit or share accounts accompanied by a writing of the type
43 described in subsection (b) of this section or to any deposit or share
44 account opened primarily for business or professional purposes,
45 including, but not limited to, escrow accounts, trust accounts and
46 clients' funds accounts.

47 (b) In the case of a deposit or share account established or

48 maintained with a bank, Connecticut credit union, or federal credit
49 union by a trustee under a will or trust agreement or under the terms
50 of some other written document, or by a trustee pursuant to statute or
51 order of a court, the trustee shall provide the bank, Connecticut credit
52 union, or federal credit union with a writing identifying such will,
53 agreement, other written document, statute or order; and any moneys
54 credited to a deposit or share account with respect to which the trustee
55 has filed such a writing shall be paid only to or upon the order of such
56 trustee or of the successor trustee. If the trustee is serving in such
57 capacity under a will, trust agreement or other written document, a
58 certified copy of such document shall be filed by the depositor if at any
59 time requested by the bank, Connecticut credit union, or federal credit
60 union but such bank, Connecticut credit union, or federal credit union
61 shall not be charged with notice, actual or constructive, of the contents
62 of such will, trust agreement, or other written document. Such bank,
63 Connecticut credit union, or federal credit union shall be fully
64 protected in paying over any moneys credited to such deposit or share
65 account to or upon the order of the trustee establishing or maintaining
66 the deposit or share account or the successor trustee and shall be under
67 no duty to inquire into the application of funds so paid.

68 (c) (1) Subsection (a) of this section applies to all deposit accounts
69 governed by its provisions established [(1)] (A) on or after June 13,
70 1963, and [(2)] (B) prior to that date if the depositor when establishing
71 such deposit account or at any time thereafter provides a writing
72 meeting the requirements of subsection (a) of this section. Subsection
73 (b) of this section applies to all deposit accounts governed by its
74 provisions whether such deposit accounts were established prior to
75 June 13, 1963, or are established on or after that date.

76 (2) Subsection (a) of this section applies to all share accounts
77 governed by its provisions which are established at Connecticut credit
78 unions and federal credit unions (A) on or after October 1, 2001, and
79 (B) prior to that date if the depositor when establishing such share

80 account or at any time thereafter provides a writing meeting the
81 requirements of subsection (a) of this section. Subsection (b) of this
82 section applies to all share accounts governed by its provisions
83 whether such share accounts were established prior to October 1, 2001,
84 or are established on or after that date.

85 Sec. 2. Section 36a-446 of the general statutes is repealed and the
86 following is substituted in lieu thereof:

87 (a) The capital of a Connecticut credit union shall consist of the net
88 payments on shares made to it by its members.

89 (b) The par value of shares shall be five dollars or any multiple
90 thereof, except that any Connecticut credit union in existence on May
91 23, 1969, having a par value of shares other than as set forth in this
92 subsection shall not be required to change such par value by virtue of
93 the requirements of this subsection.

94 (c) Payments on shares including membership shares or parts of
95 shares may be received at any time. Payments on shares and parts of
96 shares with the exception of membership shares may be withdrawn in
97 accordance with the bylaws and in accordance with the Deposit
98 Account Contract Act except that the governing board may require
99 members to give sixty days' notice of intention to withdraw the whole
100 or any part of their shares or payments on shares.

101 (d) When a share account in a Connecticut credit union has been
102 established by or in the name of a minor or in the name of two persons,
103 one or both of whom are minors, and payable to either or to the
104 survivor, the share account shall be held for the exclusive right and
105 benefit, including the privilege of pledge or assignment, of such minor
106 or minors, and shall be free from the control or lien of all other persons
107 except creditors. The share account shall be paid, together with
108 dividends or interest thereon, to the person or persons in whose name
109 the share account is held. The receipt of the person paid shall be a

110 sufficient and valid release to such credit union for such share account
111 or any part thereof.

112 [(e) No Connecticut credit union may issue shares to or receive
113 payments on shares from one person in trust for another unless
114 accompanied by a statement signed by the member giving the name
115 and residence of the beneficiary and setting forth to whom the
116 principal and interest or dividends on such shares belong. Unless
117 provision is made to the contrary in such statement, the shares may, on
118 the death of the trustee, be paid to the beneficiary and the Connecticut
119 credit union shall be fully protected in making the payment. In the
120 case of a trust created by deed, will or other instrument, a certified
121 copy of the instrument establishing the trust shall be filed by the
122 member if at any time requested by the Connecticut credit union.]

123 [(f)] (e) A Connecticut credit union may, with the written approval
124 of the commissioner and subject to applicable restrictions of state and
125 federal law, receive from members payments on shares that will
126 comprise the assets of an individual retirement account established by
127 such member as authorized by Section 408 of the Internal Revenue
128 Code of 1986, or any subsequent corresponding internal revenue code
129 of the United States, as from time to time amended, or of a Keogh or
130 similar type retirement plan established by or for such member as
131 authorized by Section 401(d) of the Internal Revenue Code of 1986, or
132 any subsequent corresponding internal revenue code of the United
133 States, as from time to time amended, or of a retirement plan
134 established by or for such member as authorized by Section 401(k) of
135 the Internal Revenue Code of 1986, or any subsequent corresponding
136 internal revenue code of the United States, as from time to time
137 amended. Payments on shares shall be established in a separate
138 account from the shares of the member, and shall not be subject to
139 pledge to secure loans by the Connecticut credit union to the member
140 nor available for set-off by the Connecticut credit union if the member
141 defaults on a loan. Such shares shall be treated as under separate

142 ownership for purposes of applying any limit imposed by sections
143 36a-435 to 36a-475, inclusive, on the maximum amount of shares
144 owned by a member. Otherwise, these shares are subject to all of the
145 provisions of said sections relating to shares.

146 ~~[(g)]~~ (f) A Connecticut credit union may, by written agreement,
147 receive payments on shares which the member agrees not to withdraw
148 within the time period specified in the agreement. Premature
149 withdrawal shall be subject to such penalties as the commissioner may
150 prescribe by regulation, adopted in accordance with chapter 54, except
151 where withdrawal occurs on the member's death or disability,
152 liquidation of the Connecticut credit union or the occurrence of any
153 other condition the commissioner may prescribe by such regulation.
154 The commissioner may by such regulation establish the minimum
155 amount of any such payment on shares which may be subject to such
156 written agreement, the maximum interest rate or rates which may be
157 paid thereon and the time periods for which such rate or rates may be
158 paid. Dividends may be paid at a rate established by such regulation.

159 ~~[(h)]~~ (g) A Connecticut credit union may receive payments on
160 shares, not exceeding one hundred thousand dollars in the aggregate,
161 from a nonmember who is: (1) An officer, employee or agent of the
162 United States, having official custody of public funds and lawfully
163 investing such funds in the Connecticut credit union; or (2) an officer,
164 employee or agent of the state of Connecticut or of any municipality or
165 other political subdivision thereof having official custody of public
166 funds and lawfully investing such funds in the Connecticut credit
167 union.

168 ~~[(i)]~~ (h) Except as provided in this subsection, all Connecticut credit
169 unions shall maintain in full force and effect share insurance as
170 provided under the Federal Credit Union Act, as from time to time
171 amended. Any Connecticut credit union that fails to maintain in full
172 force and effect share insurance as provided in this section shall

173 terminate its corporate existence in this state as promptly as possible
174 under such terms and conditions as the commissioner deems
175 appropriate.

176 Sec. 3. Subdivision (18) of section 36a-316 of the general statutes is
177 repealed and the following is substituted in lieu thereof:

178 (18) "Time account" means (A) a deposit account with a maturity of
179 at least seven days in which the depositor generally does not have a
180 right to make withdrawals for six days after the account is opened,
181 unless the deposit is subject to an early withdrawal penalty of at least
182 seven days' interest on amounts withdrawn, and (B) a Connecticut
183 credit union member's payment on shares which such member agrees
184 in writing not to withdraw within the time period stated therein as
185 described in subsection [(g)] (f) of section 36a-446, as amended by this
186 act.

Statement of Legislative Commissioners:

In section 1, "on or" was inserted before "after". Section 3 was added to reflect an internal reference change.

BA JOINT FAVORABLE SUBST.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Affected Agencies: Department of Banking

Municipal Impact: None

Explanation**State Impact:**

The bill authorizes Connecticut and federal credit unions to establish deposit accounts in which one person will hold funds in trust for another person. The Department of Banking will incur some workload increase as a result of this bill. The department will review trust transactions involving Connecticut credit unions during their periodic reviews of the credit unions. There are 49 Connecticut credit unions in the state.

OLR Bill Analysis

sSB 1066

AN ACT CONCERNING DEPOSITS IN TRUST AT CREDIT UNIONS.**SUMMARY:**

This bill extends to all Connecticut and federal credit unions existing provisions for establishing trusts. Under current law, these provisions apply only to banks. The bill broadens the scope of trusts to allow a person to create a trust in a credit union ("share account") as well as a bank ("deposit account"). The provisions for trusts in credit unions mirror existing language for trusts in deposit accounts in banks.

By law, if the named beneficiary of the trust is alive when the depositor dies, the depositor's death terminates the trust, unless the document creating the trust says otherwise. Under the bill, the beneficiary gets the title to the share account, unless he is ineligible to become a member of the credit union. A beneficiary who is not or cannot become a member of the credit union can take the money to a different financial institution.

The bill applies the provisions relating to establishment of a trust and accompanying writings to all share accounts established at Connecticut credit unions and federal credit unions (1) on or after October 1, 2001, and (2) before October 1, 2001 if the depositor at any time provides a writing specifying the terms of the trust.

The bill requires a trustee holding a share account under a will or trust agreement, written document, statute, or court order to give the bank or credit union a writing identifying the document. The depositor of a trust whose trustee is named by a will, trust agreement, or other written document must file a certified copy of the instrument if the credit union so requests. The credit union is protected in paying out money from the trust and has no duty to ask about the intended use of the funds. These provisions apply to all share accounts, regardless of when they were established.

EFFECTIVE DATE: October 1, 2001

COMMITTEE ACTION

Banks Committee

Joint Favorable Substitute

Yea 17 Nay 0